introduced to substantiate the charges. In disbarment proceedings against the attorney who was responsible for the allegations of the answer referring to the justice, *Held*, that such allegations were scandalous, malicious, and impertinent; and that the attorney should be disbarred for sixty days. *In re Snow et al.* (1904), — Utah. —, 75 Pac. Rep. 741.

The filing of an answer in the disbarment case disclaiming any intention to cast reflections upon the character of the judge does not excuse the attorney when the ordinary meaning of the language used shows the contrary. *State* v. *McClaugherty*, 33 W. Va. 250, 10 S. E. Rep. 407; *People* v. *Wilson et al.*, 64 Ill. 195, 16 Am. Rep. 528. While the statutes of Utah make it a crime for two or more persons to conspire falsely to maintain any action, yet it appears from the opinion in the principal case that charging a judge with any conduct that would subject him to impeachment and removal from office would amount to contempt, unless such charges were true or were made under such circumstances as would warrant an honest belief in their truth. It is the duty of an attorney to uphold the dignity of the court; but such attacks on the judges as the one in question tend to weaken public confidence in the courts. *Morrison* v. *Snow et al.* (1903), — Utah. —, 72 Pac. Rep. 924; 4 Cyc. 908; WEEKS ON ATTORNEYS (2d. ed.), §§ 80b, 81. Attorneys have been held guilty of contempt for charging a judge, in the pleadings, with falsifying records, *People* v. *Brown*, 17 Colo. 431, 30 Pac. Rep. 338; with accepting a bribe, *People* v. *Green*, 9 Colo. 506, 13 Pac. Rep. 514; characterizing a judge as a corrupt person in a brief, *In re Philbrook*, 105 Cal. 471, 38 Pac. Rep. 511, 884, 45 Am. St. Rep. 59; charging a judge with corrupt practices or conspiracy in affidavits filed in court, *In re Murray*, 11 N. Y. Supp. 336; *In re Mains*, 121 Mich. 603, 80 N. W. Rep. 714; also for using offensive or indecorous language in an application for a rehearing, *In re Woolley*, 74 Ky. (11 Bush.), 95; *In re De Armas*, 10 Mart. (La.), 123. Where contempt consists in the use of offensive language by an attorney to a judge, it is immaterial whether it be spoken or written. *In re Woolley*, *supra; ex parte Secombe*, 19 Howard, 9, 13.

BANKRUPTCY—CITY TAXES—PRIORITY.—The City of Waco proved a debt against a bankrupt for taxes. They were upon real estate, of which a large part had previous to the bankruptcy proceedings been sold under execution. Only a small portion of the property on which the taxes were levied came into the hands of the trustee. In the proof, the debt was shown to be secured by a lien upon the property. *Held*, under Bankr. Act, July 1, 1898, c. 541, Art. 64a, 30 Stat. 563 (U. S. Comp. St. 1901, p. 3447), the city's claim is entitled to priority of payment. *City of Waco* v. *Bryan* (1904), C. C. A. Texas, 127 Fed. 79.

Section 64a of the bankruptcy law provides that the "court shall order the trustees to pay all taxes legally due and owing by the bankrupt . . in advance of the payment of dividends to creditors." The court says that the fact that the property on which the taxes were levied never came into the hands of the trustee, has no bearing upon the question. The priority is absolutely fixed by the statute, and the rule can not be varied to meet ideas of what equity and good conscience may require. According to a dissenting opinion, however, a bankruptcy court does not ignore equitable principles, but its proper administration is essentially equitable; it of course follows the bankruptcy act, but as a court of equity follows the law. *In re Moller*, 8 Ben. 526, Fed. Cas. No. 9699. COLLIER ON BANKRUPTCY (4th ed.) 459. Here the vendee at the execution sale bought the property charged with the lien for taxes, and it is to be presumed the incumbrance lessened the amount for which it was

sold. The city then should be required to enforce its lien against the property in the possession of such vendee, and in that way satisfy its claim for taxes. If it failed to collect by enforcement of its lien, they should be paid out of the assets in the hands of the trustee. But unless resort to these is necessary, the assets should not be taken out of the hands of the trustee, to the injury of the general creditors, and paid out for the benefit of the vendee at the execution sale. See BRANDENBURG ON BANKRUPTCY (2nd Ed.) 608; *In re Veitch*, 101 Fed. 251; *In re Conheim*, 100 Fed. 268; *In re Hollenfeltz*, 94 Fed. 629; *Foster* v. *Inglee*, 13 Nat. Bankr. R. 239, Fed. Cas. 4973.

CARRIERS—DEATH BY WRONGFUL ACT—STIPULATIONS AVOIDING LIABILITY FOR NEGLIGENCE TOWARD FREE PASSENGER—VALIDITY AND EFFECT.—J. H. Adams was a lawyer, residing in Spokane, Wash., and in his capacity as attorney for several railway companies, often traveled over petitioner's road on passes, though not employed by it. On November 13th, 1898, he started on one of petitioner's trains from Hope, Idaho, to Spokane. The passenger coaches were made up into the train behind the express car, in the following order: smoking car, day coach, tourist sleeper, dining car, and Pullman sleeper. All were vestibuled except the tourist sleeper, immediately in front of the dining car, which had open platforms. Adams, shortly after leaving Hope, passed from the smoking car, through the day coach and tourist sleeper, to the dining car, purchased some cigars and started to return. This was the last seen of him alive. His body was found the next day opposite a sharp curve, not far from Hope. It was shown that the train was running at a high rate of speed, but it was not shown whether he stumbled and fell, or was thrown from the train by a sudden lurching. Adams was riding on a free pass, subject to the following conditions, which he had *signed:* "The person accepting this free ticket agrees that the Northern Pacific Railway Company shall not be liable under any circumstances, whether of negligence, or otherwise, for any injury to the person, or for any loss or damage to the property of the passenger using the same. I accept these conditions, Jay H. Adams. This pass will not be honored unless signed in ink by the person to whom issued." In an action brought by the widow and son of the deceased, *Held*, such a stipulation in a railway pass violates no rule of public policy and relieves the company from liability for personal injuries resulting from ordinary negligence of its employees to one riding on the pass, who has accepted it with knowledge of its conditions. *Northern Pacific Railway Company* v. *Adams* (1904), —U. S. —, 24 Sup. Ct. Rep. 408.

This is the first case upon the liability of a common carrier for negligence toward a gratuitous passenger, which has come squarely before the United States supreme court. The question has been decided by many of the state courts, but the decisions are in conflict. The court holds that the heirs of Adams had no greater or different rights by the statute of Idaho giving an action for death by wrongful act, than Adams would have had himself, and that, as to Adams, the railroad company was not a carrier for hire, since the company had waived its right to compensation in return for his signing the conditions relieving the company from liability for any injury to the person, under any circumstances, whether from negligence or otherwise. "He freely and voluntarily chose to accept the privilege offered; and having accepted that privilege, cannot repudiate the conditions." In *Philadelphia & R. R. Co.* v. *Derby*, 14 How. 468, Derby, though a free passenger, was allowed to recover, since there was no stipulation concerning the risk of negligence, and too, the company was guilty of gross negligence. Adams entered the train "as a licensee, upon conditions which he with full knowledge, accepted,"